

**A RESOLUTION BY  
PUBLIC SAFETY COMMITTEE**

**A RESOLUTION AUTHORIZING THE MAYOR TO APPROVE OR REJECT THE DECISION OF THE EVALUATOR PRESIDING IN THE EARLY NEUTRAL EVALUATION PROCESS, AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, IN THE MATTER OF VEOLIA WATER NORTH AMERICA OPERATING SERVICES, LLC V. CITY OF ATLANTA, IN THE U.S. DISTRICT COURT, NORTHERN DISTRICT OF GEORGIA, CIVIL ACTION NO. 06-CV-1457-TWT; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta (the "City") entered into an agreement with Veolia Water North America, LLC (f/ka U.S. Filter Operating Services, Inc.) ("Veolia") on August 1, 2002 for the provision of operation, maintenance, design and building services for the bio-solids portion of the City's four Wastewater Reclamation Centers ("WRCs"); and

**WHEREAS**, in December 2005, the City issued a letter to Veolia placing Veolia on notice of default for failure to adequately perform its obligations pursuant to the Agreement; and

**WHEREAS**, on June 6, 2006, the City placed Veolia on further notice of default and, after Veolia's failure to cure the issues of default, the City terminated Veolia's services July 10, 2006; and

**WHEREAS**, on July 19, 2006, Veolia filed suit against the City related to the dispute surrounding the issues noticed in the default letter after rejecting attempted negotiations to resolve disputed matters; and

**WHEREAS**, in an effort to avoid a prolonged and expensive litigation effort, the Parties entered into a Consent Order on June 29, 2007 to engage in an alternative dispute resolution process, known as an early neutral evaluation ("ENE"), in an attempt to resolve the disputed matters at hand ("Consent Order"); and

**WHEREAS**, the ENE includes a process whereby each party has the opportunity to present its case before a neutral third party evaluator ("Neutral Evaluator") and, at the end of that process, the Neutral Evaluator will issue an opinion as to the net value of the Parties' claims for damages; and

**WHEREAS**, pursuant to the Consent Order, each Party must present a confidential and final decision to accept or reject the Neutral Evaluator's evaluation of the net claims of the Parties; and

**WHEREAS**, it is necessary to provide the necessary authority accept or reject the Neutral Evaluator's decision prior to the completion of the ENE to maintain the integrity

of the confidential process so as not to influence the decision of Veolia and to ensure that the City can provide a final decision in compliance with the binding judicial order; and

**WHEREAS**, the Public Safety Committee has purview of authorizing the settlement of lawsuits and claims; and

**WHEREAS**, the Commissioner of the Department of Watershed Management and the City Attorney recommend providing the necessary authority to the Mayor to either accept or reject the Neutral Evaluator's decision at the end of the ENE process upon recommendation of the City Attorney.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES**, that, upon receipt of recommendation by the City Attorney, the Mayor is authorized to either accept or reject the decision of the Neutral Evaluator upon the conclusion of the ENE process, to settle or reject settlement of the suit, and submit such decision to the Neutral Evaluator on behalf of the City in accordance with the Consent Order.

**BE IT FURTHER RESOLVED**, that all terms and provisions of the City's Code in conflict herewith are hereby waived.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Dept.'s Legislative Liaison: \_\_\_\_\_ Maisha L. Wood \_\_\_\_\_

Contact Number: \_\_\_\_\_ (404) 330-6887 \_\_\_\_\_

Originating Department: \_\_\_\_\_ Department of Watershed Management \_\_\_\_\_

Committee(s) of Purview: \_\_\_\_\_ Pubic Safety and Legal Administration \_\_\_\_\_

Chief of Staff Deadline: October 15, 2007

Anticipated Committee Meeting Date(s): \_\_\_\_\_ October 30, 207 \_\_\_\_\_

Anticipated Full Council Date: \_\_\_\_\_ November 5, 2007 \_\_\_\_\_

Legislative Counsel's Signature: \_\_\_\_\_

Commissioner Signature: Robert G. Hunter <sup>scp</sup>

Chief Procurement Officer Signature: \_\_\_\_\_ N/A \_\_\_\_\_

**CAPTION**

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FINANCIAL IMPACT (if any)

Mayor's Staff Only

Received by CPO: \_\_\_\_\_ Received by LC from CPO: \_\_\_\_\_  
(date) (date)

Received by Mayor's Office: 10.19.07 Reviewed by: \_\_\_\_\_  
(date) (date)

Submitted to Council:

\_\_\_\_\_  
(date)